



Malaysia

Country Reports on Human Rights Practices - [2002](#)

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Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face significant obstacles in competing with the long-entrenched ruling coalition. However, in the November 1999 elections, opposition parties won approximately 25 percent of the seats in the Federal Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

The country has a free market economy and a population of approximately 23.8 million. The economy grew 8.3 percent in 2000, but slowed in 2001 to a growth rate of 0.4 percent growth. Analysts expected the economy to grow from 3.5 percent to 4 percent by year's end. The Government continued its stimulative fiscal and monetary policies, and took an active role in the development of the export-oriented economy. Services and manufacturing accounted for 49.6 percent and 31.5 percent of the gross domestic product (GDP). The unemployment rate was approximately 3.6 percent.

The Government generally respected the human rights of its citizens; however, serious problems remained. Police killed a number of persons, and the authorities prosecuted the perpetrators in some of these cases. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. Prison conditions were generally satisfactory, although the National Human Rights Commission (Suhakam) publicly noted its concern about prison overcrowding and about the lack of adequate health care and facilities in prisons. The trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. Police continued to use the Internal Security Act (ISA) as well as other statutes to arrest and detain many persons, without charge or trial. Prolonged pretrial detention was a serious problem.

Although reforms instituted by the new chief justice in 2001 appeared to have led to some improvements, many observers expressed serious doubts about the independence and impartiality of the judiciary, especially in high-profile cases. The politically motivated convictions of former Deputy Prime Minister Anwar on charges of corruption and sodomy in 1999 and 2000 demonstrated the judiciary's lack of independence. In May the Federal Court upheld Anwar's conviction on corruption charges. Politically motivated, selective prosecution decreased during the year but continued to be a concern.

Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The threat of slander and libel awards against journalists and media publications diminished during the year; however, these awards represented a restraint on press freedom. The Government continued to limit the publication of an opposition party newspaper, and refused to renew the publication permits of several other political weeklies. It also sometimes delayed the release of several foreign weekly magazines. Independent on-line newspapers operated without direct government interference.

The Government increased restrictions on freedom of assembly and some peaceful gatherings, particularly those organized by the political opposition. The Government continued to restrict significantly freedom of association. In 2001 the Government restricted student participation in political activities, and detained several students under the ISA. The Government placed some restrictions on religious freedom, in particular the right of Muslims to practice teachings other than Sunni Islam or to convert to other religions. The Government continued to impose some restrictions on freedom of movement. Government policies created significant restrictions on opposition parties' ability to compete effectively with the ruling coalition. The Government continued to criticize human rights nongovernmental organizations (NGOs), but also met with several such groups during the year. In 2000 the Government established the National Human Rights Commission, Suhakam. Despite some limitations on its scope, and a lack of enforcement powers, the Commission established several human rights working groups and in certain cases acted as a credible check on government authority and policy.

Despite government efforts, societal violence and discrimination against women remained problems. Sexual abuse of children

occurred, although it was punished severely. Indigenous people faced discrimination and often were exploited, especially in regard to land issues. Longstanding policies gave preferences to ethnic Malays in many areas, and ethnic minorities faced discrimination. Some restrictions on worker rights persisted. Child labor persisted, in spite of vigorous government action against it. The country was a source and destination country for trafficking in women and girls for the purpose of prostitution. Malaysia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life

There were no reports of political killings; however, there were reports of police killing persons while apprehending them. According to press reports, police killed 51 persons in this manner during the year. By year's end the Government had not formed an independent commission to investigate police killings, as was recommended by a group of 119 domestic NGOs in February 1999. According to the Government, however, in 2001 disciplinary action was taken against 577 officers and members of the Malaysian Royal Police. In 2000 1,381 officers and members were disciplined. The disciplinary action cases ranged from bribery and extortion to rape and murder.

According to the Deputy Minister of Home Affairs, 18 persons died in police custody during the year. In September the Attorney General said that whenever a person dies in police custody, the law requires that a magistrate investigate. An inquiry was begun in one of the cases. During the year, police leadership continued efforts to curb such abuses, including inviting the National Human Rights Commission (Suhakam) officials to provide training to police officers.

In May 2001, a Coroner's Court ruled that there was no criminal wrongdoing in the 1998 fatal shooting at close range by police officers of six men. However, in August the High Court overturned the decision and found that police were responsible for murderous assault.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture. At times some police tortured, beat, and otherwise abused prisoners, detainees, and other citizens. The authorities investigated some of the cases; however, the Government routinely does not release information on the results of investigations, and whether those responsible are punished is not always known.

There were several press reports of persons who alleged being tortured or mistreated while detained by the police. In August according to news reports, a man who sued police for being physically brutalized while in detention won \$3,700 (10,000 ringgit) in damages. In 2001 leading members of the opposition party, Parti Keadilan Nasional, were arrested under the ISA and held incommunicado at Bukit Aman police headquarters (see Section 1.d.). One of the opposition activists who was detained in April 2001 under the ISA reported that, among other things, he was knocked from a chair while handcuffed. In response to such reports, the Government continued to require police to attend community relations and ethics courses to address public concerns over police misconduct.

Local NGOs stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. In 2001 former Police Chief Rahim Noor was released early for good behavior after serving 40 days of his 2-month prison sentence for "causing hurt" to former Deputy Prime Minister Anwar Ibrahim. Rahim pleaded guilty to beating Anwar in 1998 while Anwar was handcuffed and blindfolded in police custody. Charges of attempted assault were reduced as part of a plea bargain. Rahim earlier paid a fine of \$525 (2,000 ringgit) for assaulting Anwar. Rahim also lost his government pension. No action was taken against senior police officers who failed to arrest or report Rahim after the beating.

In 2000 the case against fashion designer Mior Abdul Razak bin Yahya for fabricating evidence in former Anwar's trial was dismissed. Mior swore in an affidavit that police threatened and abused him into a false confession of having had sexual relations with the former Deputy Prime Minister after he was detained in September 1998. Two other codefendants recounted similar stories.

At year's end, there was still no government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was detained without charge under the ISA (see Section 1.d.).

Riot police several times, forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas (see Section 2.b.).

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. The new immigration law, which came into effect on August 1, also prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely include caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. Some state Islamic laws, which bind only Muslims, also prescribe caning (see Section 1.e.). The caning which is carried out with a ½-inch-thick wooden cane, commonly causes welts, and it sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in December, male children from 10 years of age and up may be given up to 10 strokes of a "light cane" (see Section 5).

Prison overcrowding was a serious problem. After visiting a number of prisons, several Suhakam Human Rights Commissioners said that in general they were satisfied that conditions in those prisons were acceptable. During the year there were credible reports by former prisoners who indicated that guards at some prisons regularly beat prisoners convicted of criminal offenses. In June the Director General of Prisons said that the country's 34 prisons, designed to hold 22,000 prisoners, actually held 29,000 inmates. In April 2000, Deputy Prime Minister Abdullah Badawi announced that the Government spent over \$250,000 (1 million ringgit) to provide every prisoner with a mattress, although this was not confirmed by independent monitors. In 2001 a moral rehabilitation center that provides job skills training and education opportunities was built, but two promised juvenile reform schools were not built. According to the Government, 5 new prisons, with the capacity to hold 7,900 prisoners, were in the process of being built at year's end.

The law provides that, unless the Court of Detention determines otherwise, young boys and girls in remand (judicially approved detention) may be placed in prison. According to the law, most children have the right to remain with their imprisoned mothers until the age of 3 years, but can stay beyond that age by special authority of the Director General. In 2000 the local press reported that children as young as 10-years-old were held in prisons for offenses such as petty theft or involvement in school fights. Although kept in a separate cellblock, they reportedly mingled with adult prisoners during communal activities. However, the Government claimed that juvenile prisoners were kept separately from adult prisoners, either in separate cell blocks or separate institutions, at all times. In 2001 the Government identified 2,061 juveniles held in 26 prisons throughout the country.

"Security" prisoners were detained in a separate detention center (see Section 1.d.).

The NGOs and former detainees made credible allegations of inadequate food, inadequate medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. In recent years, conditions were considered to have improved with increased food and water rations, and vitamin B shots for detainees suffering from beri-beri. In August a new immigration law, which provides for 6 months in prison and up to six strokes of the cane for illegal immigrants, took effect. The law was implemented after a 4-month special amnesty program for illegal immigrants ended. Subsequent to the law's implementation, hundreds of illegal immigrants were detained in camps pending deportation, and there were reports of significant overcrowding during that time. According to some reports, this overcrowding contributed to the deaths of several detainees. During the year, a number of Rohingya asylum seekers were sent to detention camps for illegal immigrants pending deportation to Burma. There were no reports of deaths or mistreatment of Burmese Rohingyas in detention camps during the year.

Immigration officials said that over 450,000 illegal immigrants were deported back to their home countries during the year. They also stated publicly that several hundred individuals convicted of violating the immigration law had been subjected to its provisions, including caning.

The Government does not have any agreement with the International Committee of the Red Cross (ICRC) that permits visits to prisoners. If the ICRC were to request such a visit, it would need to negotiate an ad-hoc agreement with the Government. However, according to one ICRC representative, prison conditions did not represent a significant problem. NGOs and the media generally were not permitted to monitor prison conditions. Access to illegal alien detention camps was restricted, although UNHCR officials were given access to several camps to identify and interview potential refugees at various times during the year (see Section 2.d.). In addition, Suhakam officials visited various camps at different times during the year. The Government reportedly has welcomed a proposal for a team to undertake an objective assessment of the situation in detention camps.

d. Arbitrary Arrest, Detention, or Exile

Police continued to use several statutes to arrest and to detain many persons without charge or trial. Suspects in some crimes (called "seizable offenses") may be arrested without warrants; suspects in other crimes ("nonseizable offenses") may be arrested only based on a warrant from a magistrate. Crimes characterized as bailable offenses permit suspects to present bail at the police station according to a schedule. The Courts enjoy discretion to deny bail for "nonbailable offenses", which are typically serious in nature, and in other circumstances, for example, great risk of flight. Police may hold suspects for 24-hours without charge. Police may request a magistrate to extend the period of detention without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect, must charge him and seek an order of detention from a magistrate. In

some cases, police released suspects under remand and quickly rearrested them on new but similar charges; however, in general, police practice was in accord with legal provisions concerning detention.

Police may deny prisoners under detention access to legal counsel and routinely did so. Police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice. Defendants' advocates claimed that the lack of access to counsel seriously weakened defendants' legal rights.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures). The ISA which originally was enacted when there was an active communist insurgency, empowers the police to hold for up to 60 days any person who may act "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the remainder of their detention periods. These conditions limit their rights to freedom of speech, freedom of association, and freedom to travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. In October the Deputy Home Minister said that there were 114 persons in detention under the ISA. In July Deputy Home Minister Datuk Zainal Abidin Zin said that since its inception in 1960, 4,190 persons were arrested under the ISA.

The ISA often is used against what the Government considers nonpolitical crimes. The Government states that deviant Muslim groups pose a danger to national security because of their radical beliefs. There were no reports of the Government using the ISA against political opponents during the year. The ISA, and the threat of invoking the ISA, however, are used to intimidate and restrict political dissent. For example, in 2001 the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. Six of these individuals received a 2-year detention order and remained in detention at year's end. Two of the detainees who were released claimed that, during their interrogations while in police custody, they were questioned only about their political beliefs and personal life but not about the alleged offenses for which they initially were detained. In April the six detainees began a hunger strike to protest their detention under the ISA, calling on the Government to release them or to try them in open court. They ceased their hunger strike when Suhakam publicly stated its intention to conduct an inquiry into all aspects of ISA detentions. A small group of sympathizers conducted a parallel hunger strike in front of the Islamic party, Parti Islam Se-Malaysia (PAS) headquarters on the outskirts of Kuala Lumpur.

In June Suhakam conducted the first part of an inquiry into the conditions of the ISA detainees in Kamunting prison camp. According to an observer, 3 Suhakam Commissioners publicly interviewed 17 ISA detainees. The six supporters of imprisoned former Deputy Prime Minister Anwar Ibrahim detained under the ISA boycotted the proceedings and criticized the inquiry for its narrow scope. One attendee said that during the proceedings the detainees were free to speak about almost anything including political issues.

In December, 10 individuals were detained under the ISA for rumor mongering but were released on police bail. The 10 had allegedly forwarded e-mails claiming that a terrorist group was planning to launch a series of attacks at popular locations in Kuala Lumpur.

There were 43 suspected terrorists detained under the ISA during the year. One individual was released conditionally, another was released unconditionally, and the rest remained in detention at year's end. In 2001 two university students were detained under the ISA for participating in opposition political activities, including protesting against the ISA itself. Both were released within 60 days. In November one of these detainees was released after a High Court judge ruled his detention invalid but was then immediately rearrested under the same section of the ISA. In 2001 the Government also detained a number of suspected terrorists. Among those detained reportedly were members of PAS. One, Nik Adli, is the son of the PAS leader and Chief Minister of Kelantan, Nik Aziz. Most of these individuals remained in detention at year's end.

Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees refused to participate in the review process under these circumstances.

Amendments to the ISA in 1988 circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts did not concur with this interpretation, and they reviewed ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always were detained again immediately. However, in May 2001 Shah Alam High Court Judge Hishamuddin Mohd Yunus ordered the release of two opposition leaders who were detained that April under the ISA, calling their detentions unlawful. In his ruling, the judge said that the police could not simply cite the ISA's function to "preserve national security" as justification for its use. Additionally, the judge included a special provision in his ruling that forbade the police from rearresting the two individuals in the first 24 hours after their release. By the end of the year, neither one had been rearrested.

In August the Federal Court ruled that the detention of the six opposition activists detained under the ISA in April 2001 were unlawful. However, as the Court's ruling focused on the police's initial 60-day detention order and not on the Home Affairs Ministry's subsequent determination to detain the activists for an additional 2 years, the detained activists remained in detention at year's end. In December the ISA advisory board reviewed the case, noted the Federal Court decision, and recommended that the detainees be released. Anti-ISA activists criticized the government's legal reasoning and its refusal to follow the court's ruling to release the detainees.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. For example, in 2001 a group of 71 NGOs and opposition parties joined together to form the Abolish the ISA Movement (AIM). The group organized conferences, hosted a web site, and staged other events to broadcast its opposition to the ISA. In 2001 it submitted a proposal to Parliament to repeal the ISA. However, during the year, a number of ruling coalition politicians and government officials continued to state that the ISA remained necessary and would not be repealed. Government Ministers publicly stated that the move by foreign governments to implement preventive detention measures to combat terrorism, underscored the country's continued need for the ISA. Representatives of human rights organizations stated that the international campaign against terrorism dampened support for the anti-ISA movement. Following several successful legal challenges to ISA detentions on procedural grounds, the Government reportedly was reviewing the law to further restrict the scope of judicial review.

Under the Emergency Ordinance, the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In practice the Government used the Emergency Ordinance for other reasons. According to the human rights NGO, Suaram, as of July, 309 persons had been detained under the Emergency Ordinance.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial. Such suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges—often as they left the courtroom. During the year, the Government detained over 1,821 persons under this law.

Immigration laws are used to detain possible illegal immigrants without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention centers that were separate from prisons (see Section 1.c.).

Crowded and understaffed courts often result in lengthy pretrial detention, sometimes lasting several years.

Law enforcement authorities also used the Restricted Residence Act to restrict movements of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists questioned the need for this law, which was passed more than 60 years ago (during British sovereignty), and they have called for its repeal. The Government continued to justify the act as a necessary tool to remove suspects out of the area where undesirable activities are being conducted. The Government did not disclose how many persons were subject to the Restricted Residence Act and no accurate estimate was available. In 2000 there were 93 persons held in prison waiting to be placed under restricted residence, and 17 of these persons were released from prison into restricted residence.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to abscond.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation restricting judicial review, and other factors eroded judicial independence and strengthened executive influence over the judiciary. In recent years, a number of high-profile cases cast doubts on judicial impartiality and independence, and raised questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGOs, and other observers continued to express serious concern about these problems.

Many observers believe judicial independence improved since Tan Sri Mohamed Dzaiddin Abdullah was appointed Chief Justice in December 2000. Immediately following his appointment, Chief Justice Dzaiddin spoke publicly about the importance of restoring public trust in the judiciary and instituted a rotational case-assignment system intended to ensure impartiality of judges in the assignment of hearing any given case. Dzaiddin also repeatedly stressed that a judge's loyalty must be to the law

rather than to outside factors such as politics. Since Dzaiddin's appointment, a number of high -profile cases were decided according to the legal merits of the case. However, some observers, including prominent members of the bar, expressed concern that judicial independence continued to be compromised. Citing, for example, the Federal Court's denial in July of former Deputy Prime Minister Anwar Ibrahim's final appeal on corruption charges, these observers commented that the executive's influence on the judiciary remained a significant problem.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Juvenile courts try offenders under 18 years of age. The Special Court tries cases against the King and the Sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, hears appeals of Court of Appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind Muslims, the majority of whom are ethnic Malays. According to the Government, the Conference of Rulers, which consists of nine Sultans and the heads of the other four states, has agreed on the harmonization of Islamic laws. During the year, a committee was established under the Department of Shari'a to recommend ways to carry out this harmonization. However, Islamic law is under the purview of the states, and it is up to the individual states to adopt the recommended laws.

Indigenous peoples in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these rarely are used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. While the defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial, according to the Government, defendants may make statements for the record to an investigative agency. In general limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

A 1997 amendment to the Criminal Procedure Code that may erode defendants' presumption of innocence continued to concern lawyers. Before this amendment, the prosecution was required to prove its case beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present a defense. Since the amendment, the prosecution only needs to prove a legally sufficient case, and the defendant must be given the opportunity to present a defense. The Courts of Judicature Act limits the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the upper courts. The president of the Bar Association said that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations. These regulations governing trial procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. The Essential Regulations were invoked in 2000 at the beginning of the trial of 29 members of the Al-Ma'unah sect accused of carrying out arms thefts at two army posts. Defense lawyers argued that the use of the Essential Regulations was unconstitutional, since no certificate of emergency declaring a national emergency had been issued. The judge ruled that the Attorney General has the discretion to opt to use the Essential Regulations, if he saw fit to do so (see Section 1.d.).

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, during a trial police may call and interrogate witnesses who gave testimony not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants. Prosecution based on political rather than legal considerations (selective prosecution), is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. Some NGOs made credible accusations of political interference in the judicial process. However, the Chief Justice made clear his opposition to the practices of the past and his intention to make the law, rather than political considerations, hold sway over the legal process, including decisions on whether or not to prosecute. Government officials, including the Minister in the Prime Minister's office responsible for legal affairs, denied that the Attorney General practices selective prosecution.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves. However, the use of contempt of court charges against defendants and their attorneys appeared to be decreasing. For example, in 1998 the High Court convicted Attorney Zainur Zakaria for contempt of court after he refused to apologize for filing a brief on behalf of his client, former Deputy Prime Minister Anwar Ibrahim. In 1999 the Appeals Court upheld his conviction. However, in 2001 the Federal Court overturned the conviction, and stated that the High Court Judge, in his initial handling of the case, appeared to be acting as an agent for the prosecution.

Following a number of high-profile corruption cases, the Government amended the Anti-Corruption Act in 1997. The law gives the Attorney General powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their monetary and other assets legally.

Islamic courts do not give equal weight to the testimony of women. Many NGOs have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, and against Irene Fernandez, raised serious questions about judicial independence and impartiality (see Section 2.a.). According to many legal experts, both domestic and international, former Deputy Prime Minister Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. In September 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later that same month, after a large and mostly peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. Many observers believe the Government manufactured these charges and used them to remove Anwar, who appeared to be gaining popular support after he was fired from the political scene. While in detention, Anwar was beaten by the former Inspector General of Police Rahim Noor (see Section 1.c.). For several days, Anwar was denied medical treatment for the injuries he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, but according to the Government, to prevent social unrest from boiling over, police changed Anwar's status to "detention without charge" under the ISA. Anwar's status subsequently was changed again to criminal detention.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial, the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under the law but in this case was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges and then expunged the record of all evidence of sexual misconduct. Following his arrest, Anwar was denied bail on questionable legal grounds.

At the beginning of the sodomy trial, prosecutors changed the dates of the alleged acts of sodomy, supposedly because the defense discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police coerced a confession from an alleged homosexual partner, in 1999 the judge ruled that the prosecution proved beyond a reasonable doubt that this confession was voluntary. A few days later, another witness admitted that police coached part of his testimony. In August 1999, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day, the judge ruled that the policeman had not lied. In April 2000, the judge ruled that the Prime Minister, who was called by the defense in an attempt to prove a political conspiracy against Anwar, would not be required to testify. Defense attorneys maintained that they were not permitted by the judge to call a number of witnesses. The defense claimed that the judge exerted pressure to bring the trial to an early conclusion. In his written ruling, which was released in June 2001, the judge said that the testimony of the chief prosecution witness—widely viewed as deeply flawed and lacking credibility—was as solid as the "Rock of Gibraltar."

In 1999 Anwar was convicted on four counts of corruption and sentenced to 6 years in prison. In April 2000, Anwar's appeal of the conviction and sentence was denied by the Court of Appeals. In July of this year, the Federal Court rejected Anwar's final appeal on these charges.

In August 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the 6-year sentence for corruption. Anwar's lawyers requested that this conviction be reviewed by the Appeals Court. At year's end, the date for this appeal had not been set. On May 12, the High Court acquitted Anwar of the four remaining charges of sodomy and one charge of corruption that were pending against him after the prosecution withdrew the charges. Most observers believed this was because the charges were without basis and would have resulted in further government embarrassment should they have been aired in open court. According to the Constitution, Anwar will be disqualified from holding any public office for 5 years once he completes his 15-year sentence.

Anwar's conviction and sentence were criticized strongly by opposition parties, human rights groups, and a number of foreign governments and international human rights organizations. For example, the Bar Council criticized the trial, citing irregularities in the evidence, and characterized the sentence as "manifestly excessive and harsh." After spending nearly 6 months in a hospital receiving treatment for a slipped disk in his back, Anwar was sent back to prison in May 2001. In a May 2001 public statement, Suhakam stated that there were no laws prohibiting Anwar from being sent abroad for medical treatment. The Government denied Anwar's request for medical treatment

abroad, claiming that adequate medical treatment for his condition exists in the country. Anwar remained in prison at year's end. He was permitted to receive visits from only his family and lawyers. According to the law, Anwar is a "common criminal" rather than a political prisoner, and therefore does not have the right to receive visits from international human rights organizations.

Anwar Ibrahim is a political prisoner. In addition, the six individuals associated with the Anwar-based National Justice Party who were arrested in 2001 and who remained in detention under the ISA are political detainees. One of the six, Ezam Noor, formally is being detained under the Official Secrets Act (OSA) which restricts freedom of expression, but his detention under the ISA reportedly has not been waived (see Section 2.a.).

Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law protects against such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (see Section 1.d.). Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

A clause in the Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses (see Section 5).

Two state governments sought to restrict Muslim women's dress (see Section 5). In Kelantan the state government decreed that female performers may only appear before female audiences.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice the Government restricted freedom of expression and intimidated most of the print and electronic media into practicing self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, OSA, criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. During the year, according to government officials, 1,385 permit applications to hold public talks were approved and 33 were rejected due to either security reasons, late applications, inappropriate venues, or because there was a potential for causing traffic problems.

Throughout the year, government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. However, government and ruling party officials sometimes made statements on sensitive racial and religious issues with no repercussions. In June the opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized the Prime Minister's declaration that the country was an Islamic state. In August the High Court acquitted the Youth Chief of the National Justice Party, Ezam Noor, of sedition charges for his alleged call for street demonstrations in March 2001 to topple the Government (see Section 1.e.).

In March opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined \$1,300 (5,000 ringgit). In January the sedition charges against opposition leader and prominent attorney Karpal Singh were dropped. Karpal was charged for statements that he made in court during his defense of Anwar Ibrahim that the Government considered seditious.

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. Opposition leaders historically accused the Government of using the OSA to cover up corruption. In January 2000, Ezam Noor, also a former Anwar aide, was charged under the OSA with disclosing to reporters secret Anti-Corruption Agency (ACA) reports. Ezam said publicly in August 1999 that Anwar stored documents abroad that corroborated charges of corruption against senior government leaders. Ezam claimed that the reports showed that the ACA was not pursuing corruption cases against senior government officials. In August Ezam was convicted of revealing secret ACA reports to reporters and was sentenced to 2 years in prison. In March 2000, a government official said in Parliament that only six persons had been arrested under the OSA since its inception in 1972, and he claimed that this statistic proved that the Government did not use the OSA to silence critics.

In January 2000, the editor and printer of Harakah, PAS' newspaper, were charged with sedition in connection with a 1999 Harakah article that quoted an opposition politician's comments on the confession of Sukma Darawaman, Anwar Ibrahim's codefendant. In May 2001, the printer pled guilty and was fined slightly over \$1,000 (4,000 ringgit). The editor's case still was pending at year's end.

In March 2000, the Melaka state government announced that it terminated the contracts of an undetermined number of panel doctors, architects, lawyers, and blacklisted contractors who allegedly were aligned with opposition parties. The state government also closed government accounts in banks where the staff was accused of criticizing the Government. According to opposition representatives, these practices continued during the year. In July 2000, the Penang state government also blacklisted contractors for their alleged involvement in antigovernment activities, such as supporting or funding opposition parties. Opposition parties and NGOs criticized these actions as discriminatory, claiming that such steps were inconsistent with the demands of a democratic society.

During 2000 many government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In July 2000, the Federal Court upheld a judgment of over \$250,000 (1 million ringgit) against a freelance journalist who was sued for libel by a wealthy businessman in 1994. In 2001 in an unprecedented move, the Federal Court agreed to review this decision. The date of this review was not set by year's end. In September 2000, the Minister in the Prime Minister's department responsible for legal affairs told reporters that the Government would review the defamation law in response to public concern over libel awards which, he noted, frequently exceeded damages handed down in personal injury cases. At year's end, the Government continued to review the issue; however, no results were reported. During the past 2 years there was a noticeable decrease in the number of defamation suits.

The English and Malay mainstream press provided generally laudatory, uncritical coverage of government officials and policies, and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. Chinese-language newspapers generally were freer in reporting and commenting on sensitive political and social issues, but they were not immune to government pressure. There was widespread concern that the purchase in May 2001 of two major Chinese-language dailies by the investment arm of the ruling coalition's most influential Chinese party would restrict this freedom and transform the newspapers into progovernment organs. These concerns were magnified when the top management of one of the dailies was removed immediately following the takeover. Most analysts believed that the editorial content of the two newspapers subsequently became less independent. During the year, several newspaper vendors were the target of official raids for selling opposition party newspapers. However, self-censorship and biased reporting in the print media was not uniform and the English-, Malay-, and Chinese-language press all, at times, provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended to make the publication of "malicious news" a punishable offense, to expand the government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. According to the Government, this amendment was made to ensure that "distorted news" was not disseminated to the public. Government power over license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In October Deputy Home Affairs Minister Chor Chee Heung told Parliament that from the beginning of 2001 until October, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the act. During the same period, the Home Affairs Ministry brought 199 cases to court for selling and distributing publications without a permit. Government officials continued to argue that the act helped to preserve harmony and to promote peaceful coexistence in a multiracial country.

In October the Deputy Home Affairs Minister said that there were 63 newspapers in the country, including those which were imported. In August 2001, the Deputy Home Minister said that his Ministry approved 2,141 publishing permits and 1,194 printing press licenses during the year and that this showed that the Government had a liberal approach to such permits. In August 2000, the Minister in the Prime Minister's department responsible for legal affairs said that the act would not be repealed, even if a national press council were established to regulate the media.

The Government often conveyed its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition, leading political figures in the ruling coalition, or companies controlled by them, owned most major newspapers, thus limiting the range of views. At times the susceptibility of the press to government pressure had a direct and public impact on operations. For example, in January 2000 the group editor in chief of a local press conglomerate was removed after its flagship newspaper, the New Straits Times, carried several articles that reportedly angered the United Malay National

Organization (UMNO), the most powerful party in the ruling Barisan Nasional (BN) coalition. However, this individual subsequently was appointed for a 1-year term in September 2001 as chairman of Bernama, the national news agency.

In September the permit of the Chinese newspaper Oriental Daily Express was suspended on the day of the paper's first issue. The Home Affairs Ministry gave no reason for the suspension. However, in December, the Home Affairs Ministry allowed the paper to be published again.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accused the Government of purposely prolonging the trial, the longest in the country's history. At year's end, the trial continued (see Section 1.e.).

The Government also sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to the relevant organization members. Harakah was the target of several ruling party-sponsored libel suits. Harakah was the only major Malay and English language media forum for opposition views, and its circulation used to rival that of mainstream newspapers. In March 2000, the Government stipulated that Harakah publish only twice a month instead of twice a week. Several other opposition newsletters were allowed to publish and be distributed without government permission.

Most major newspapers have an online edition, and during the year, there were two exclusively on-line newspapers. Exclusively online newspapers did not require publication permits. In 2001 the Government engaged in a sometimes intimidating campaign to discredit the independent Internet daily, Malaysiakini.com, winner of an International Press Institute 2001 Press Freedom Award. This campaign did not continue during the year, and Malaysiakini was able to establish itself as a core media outlet in the country. While the Government continued to deny them formal press accreditation, Malaysiakini reporters were allowed to cover government functions and ministers' press conferences. Administrators of the on-line newspaper said its principal challenge was economic rather than political, even though the organization's relationship with the Government remained contentious.

Printers who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

Both legal magazines (those with publishing permits) and illegal publications (those lacking publishing permits) frequently printed criticism of the Government. In November 2001, police raided a printing company and seized several thousand pamphlets that accused the Selangor state Chief Minister of being involved in corrupt practices.

During the year, the Government interfered with the release and distribution of several foreign magazines, including the Far Eastern Economic Review and Newsweek. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news.

The electronic media was restricted more tightly than the print media. Radio and television almost uniformly were supportive of the Government. News of the opposition was restricted tightly and reported in a biased fashion. Opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. In the run-up to the February Indira Kayangan by-election, the government-owned television networks ran a recurring prime-time news clip that portrayed the PAS as a domestic Taliban group. The two broadcast private television stations have close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. It was unlikely that the Government would grant the opposition a broadcasting license. The Government did not approve a longstanding license application for a state radio station in the opposition-controlled Kelantan State.

In June the Deputy Home Affairs Minister reportedly directed the government-owned television networks to refrain from broadcasting a program on the Malaysian Chinese Association's controversial acquisition of several Chinese newspapers in 2001.

Internet television faced no such restrictions. In 2001 the opposition Islamic party launched its own Internet television studio, which broadcasted programs daily.

A government censorship board censored films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. The Government banned certain books for political and religious reasons or because of sexual or profane content. Some foreign newspapers and magazines were banned and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet undermined such restrictions. The Government maintained a "blacklist" of local and foreign

performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. In 2001 the Government announced that it would increase efforts to block the production, distribution, and sales of video compact discs (VCDs), especially those with pornographic or political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In December 2000, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA, which, while prohibiting censorship, provides for "legal action" against those who post defamatory and false information on the Internet. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

In past years, government officials made contradictory comments about the desirability of censoring the Internet, but the Government took no action to restrict the Internet during the year. According to news reports, in March a high-level government official said that the Government abandoned plans to regulate the Internet because the task was impossible.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at government-affiliated mosques. Some state governments banned certain Muslim clergymen from delivering sermons, and more recently, active monitoring of sermons began in certain states (see Section 2.c.). The Religious Affairs Department continued to conduct background checks on all clergymen. Throughout the year, government officials and ruling coalition politicians complained that opposition Islamic party members gave political sermons in mosques around the country. In May 2000, members of the opposition Islamic party were banned by the Selangor state government from giving speeches in all mosques, government buildings, and prayer places in the state.

In July 2001, the Government ceased to issue permits for political gatherings and continued to apply the ban during the year (see Section 2.b.). This significantly limited the ability of opposition parties, particularly the Islamic party, to communicate with their supporters and to raise funds for their activities. For example, meetings that were scheduled to take place indoors were restricted. On October 1, police blocked a meeting organized by civil society activists to protest the government's refusal to release the six opposition figures detained under the ISA following the Federal Court's ruling that their initial detentions were unlawful. The meeting was scheduled to take place inside the Selangor Chinese Assembly Hall in Kuala Lumpur. Nonetheless, some opposition rallies continued to be held. Also, in July 2001, the Government began to crack down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly regarding the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In March the Government began to require that all civil servants sign a pledge of loyalty to the Government, and in May it required that university faculty and students sign the same pledge. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Academics sometimes were publicly critical of the Government. However, there was self-censorship among public university academics whose career advancement and funding depended on the Government. In August 2001, a secondary school teacher in the State of Terengganu was charged with sedition for asking his students to answer a test question regarding the erosion of judicial independence in the country.

In 2001 senior government officials said that teachers who opposed the Government and students who took part in antigovernment activities would face disciplinary actions, including dismissal and expulsion. In October 2001, the Education Minister announced that 61 university lecturers were dismissed, transferred, or issued warnings for alleged "antigovernment" activities. In 2001 several university students were expelled or suspended for engaging in activities associated with the political opposition.

Private institution academics practiced self-censorship as well, due to fear that the Government might revoke licenses for their institutions. The law also imposes limitations on student associations and student and faculty political activity (see Section 2.b.).

In July 2001, the Government detained two students at the University of Malaya and the Mara Technical Institute under the ISA for engaging in opposition political activities, including demonstrating against the ISA. The two were released before the initial 60-day period elapsed. The Government claimed that student participation in opposition politics threatened national security, and argued that individuals fortunate enough to be enrolled in the university should focus exclusively on their studies. Opposition leaders said that restrictions of political expression on campus would stifle students' intellectual development.

The Government long stated that students should be apolitical and used that assertion as a basis for denying opposition parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The Government enforced this policy selectively; however, it did not refrain from spreading government views on political issues among students and teachers.

In February 1999, the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform, charged that the University fired him for political reasons and filed suit. The university stated that it declined to renew Chandra's contract for economic and personnel reasons. In March the High Court ruled in Chandra's favor and awarded him \$30,000 (115,000 ringgit).

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits routinely to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police did grant permits for many opposition meetings. In July 2001, the Government ceased issuing permits for all political meetings (ceramah) throughout the country. This was perceived widely as an effort to target the activities of the political opposition, although some opposition rallies continued to be held. In April the Islamic opposition party filed a suit against the Government protesting the ban.

Even before the 2001 ban on political meetings, opposition leaders maintained that police issued permits for public assemblies in a manner that discriminated against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits were granted; however, in certain sensitive cases political considerations led to the denial of permits. Police reaction to opposition rallies that ignored the requirement for a permit or were held after the Government denied a permit varied. In some instances, persons were told to disband immediately or face police action. In other instances, persons were given time to conduct their activities and were not threatened with police action. Opposition politicians noted that ruling coalition parties frequently assembled without the requisite permits.

A university vice chancellor must approve campus demonstrations. Restrictions were not enforced as vigorously on students who participated in political activities in support of the ruling coalition.

In April police broke up an opposition event in the State of Kedah with water cannons that used chemically laced water. In August police broke up a gathering of supporters of former Deputy Prime Minister Anwar Ibrahim who were celebrating Anwar's birthday outside of Sungai Buloh prison. In April 2001, the police mounted an operation to prevent citizens from participating in a Kuala Lumpur demonstration called by the opposition to commemorate the 2-year anniversary of Anwar Ibrahim's 1999 conviction on corruption charges. In the days prior to the event, police detained seven opposition activists under the ISA and claimed they were planning a massive, violent demonstration to overthrow the Government. Three others were detained in the days after the demonstration. Of these 10 individuals, 6 remained under ISA detention at year's end.

In June Suhakam released its second annual report, which reiterated the Commission's earlier criticism of government-imposed restrictions on freedom of assembly. The 2001 report recommended relaxing restrictions on freedom of assembly and noted the need to approve applications for peaceful assemblies as a general rule. In August 2001, the Suhakam also released a report specifically addressing freedom of assembly. Highlighting the fact that the right of assembly is provided for in the Constitution, the report recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. The Government responded by calling the report "biased and idealistic" and influenced by "western liberal thinking."

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limited this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refuses to register organizations or may impose conditions when allowing a society to register.

To avoid the burdensome requirements of the Societies Act, many NGOs register under the Companies Act or under the Registration of Businesses Act (see Section 4). The Government prohibits the Communist Party and affiliated organizations (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it has enforced selectively against political opposition groups. In July 2001, government officials said that the Government would prosecute or deregister societies that did not accurately declare whether they received foreign funds. In the same month, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or for purposes that were incompatible with national security. Some human rights activists claimed that this could be used to restrict NGOs that were critical of the Government. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also may cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists claimed that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target.

In August 2000, the High Court heard an appeal from the Socialist Party of Malaysia, whose application to form a new political party was rejected in February 1999 by the Registrar of Societies. The Registrar stated that information on the application form was incomplete. Supporters of the Socialist Party claimed that the denial was motivated politically and filed an appeal. The case still was pending at year's end.

The Universities and the University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated that the act still was

necessary.

c. Freedom of Religion

The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam was restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worshipped freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to "infuse Islamic values" into the administration of the country. The Government imposes Islamic religious law (Shari'a) on Muslims only in some matters and it does not impose Shari'a beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. In May 2001, the Government decided not to approve the Falun Gong Preparatory Committee's application to register as a legal organization, but this did not effect the Falun Gong's ability to carry out activities in public.

Under the law and in practice, it is very difficult for Muslims to change religions. In April 2001, a High Court judge rejected the application of a Malay woman who argued that she converted to Christianity, and requested that the term "Islam" be removed from her identity card. The judge ruled that an ethnic Malay is defined by the Federal Constitution as a "person who professes the religion of Islam." The judge also reaffirmed the March 1999 High Court ruling and stated that only an Islamic court has jurisdiction to rule on the woman's supposed renunciation of Islam and conversion to Christianity. The ruling makes conversion of Muslims nearly impossible in practice.

In 2000 the State of Perlis enacted a law that stipulated Muslims found guilty of apostasy by a Shari'a court are to be sent to "faith rehabilitation centers." Since its enactment, there have been no convictions under this law. Such a bill also was proposed at the highest level of the Government. Leaders of PAS said that the penalty for apostasy should be death.

The Government generally respected non-Muslims' right of worship; however, state governments carefully controlled the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes were granted very slowly. In 1999 the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. In August 2000, these minimum guidelines were relaxed somewhat. The group also argued that, under the guidelines, the Islamic Council of the state in question must approve the establishment of all non-Muslim places of worship. In addition, after years of complaints by non-Islamic religious organizations about the need for Islamic authorities in each state to approve construction of non-Islamic religious institutions, the Minister of Housing and Local Government announced that such approval no longer would be required. However, it was unclear whether this change generally would be reflected in state policies and local decisions. For example, in Shah Alam, the Selangor state authorities continued to block construction of a Catholic church.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national "inter-religious" council, although no such council was created. During the year, Suhakam initiated an inter-religious dialog to improve understanding among different religious groups. Leaders of a number of different faiths, including Islam, Christianity, and Buddhism participated.

The proselytizing of Muslims by members of other religions is prohibited strictly; persons proselytizing non-Muslims face no obstacles. The Government discouraged, and in practical terms forbade, the circulation in the peninsular region of the country Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities did not always enforce them actively. The distribution of Malay-language Christian materials faced few restrictions in the eastern part of the country. Most visas for foreign Christian clergy were approved. Beginning in March 2000, non-Muslim representatives sat on the immigration committee that approves such visa requests.

The Government opposes what it considers to be deviant interpretations of Islam, maintaining that the "deviant" groups' extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi'a. The Government continues to monitor the activities of the Shi'a minority, including those of 55 religious groups believed to be involved in deviant Islamic teachings. In November 2000, the Shari'a high court in the State of Kelantan sentenced four persons to 3 years in jail for disregarding a lower court order to "recant" their allegedly heretical Islamic beliefs and to "return to the true teachings of Islam." The High Court rejected their argument that Shari'a law had no jurisdiction over them because they had ceased to be Muslims. In August the Court of Appeals reaffirmed the High Court ruling. The four individuals subsequently have filed an appeal with the Federal Court.

The Government periodically detains members of what it considers Islamic deviant sects without trial or charge under the ISA.

After release such detainees are subject to restrictions on their movement and residence. For example, in July 2000, the Government used the ISA to detain at least 33 members of the Al-Ma'unah sect, who reportedly were not suspected of involvement in an early July arms theft incident. Fifteen members remained under ISA detention at year's end.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. The Government periodically warned against those who delivered sermons in mosques for "political ends" and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques (see Section 2.a.). In November Kedah Chief Minister Syed Razak Zain announced that the Government planned to install voice recording equipment in all mosques in the northern State of Kedah in order to monitor imams who were suspected of straying from their religious texts and criticizing the Government. In October 2000, the Chief Minister of Kelantan, who is also the spiritual adviser for the opposition Islamic party PAS, was banned from speaking at a mosque in Selangor. The Chief Minister spoke despite the ban and vowed that he would continue to speak wherever he was invited. He was warned of prosecution if he defied the ban again. The mosque officers who allegedly allowed him to speak were not prosecuted, but they were required to attend a counseling session.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction.

In 2000 the Government announced that all Muslim civil servants must attend religious classes, but only classes in Islam would be held. In addition, only teachers approved by the Government would be employed to conduct these classes. During the year, the Government implemented this rule for civil servants.

In family and religious matters, all Muslims are subject to Shari'a law. In 2001 the PAS-led government of Terengganu State passed the Shari'a Criminal Offence Bill (see Section 5). The bill sought to impose Islamic law against theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam. However, a suit arguing that state governments have no authority to make criminal law was filed in the Federal Court to block the implementation of a similar law in the neighboring State of Kelantan. Both cases were pending at year's end. According to some women's rights activists, women were subject to discriminatory interpretations of Shari'a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as "bumiputras," most of whom are Muslim (see Section 5).

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The eastern states of Sabah and Sarawak have the right to control immigration and to require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still were bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of an attorney from peninsular Malaysia who was involved in several lawsuits against the state government. In May the Federal Court overturned the Appeals Court decision and ruled that Sabah's exclusive control on immigration was provided for in the Constitution and could not be challenged. In June the Sabah State Immigration Department gave the attorney a work permit enabling him to stay and work in Sabah. In 2001 the Government reportedly prohibited 78 citizens from traveling abroad claiming that they had "tarnished the country's image while abroad." Deputy Home Minister Datuk Zainal Abidin Zin told Parliament that the individuals in question were "blacklisted" and would not be issued passports. Also in 2001, the Sarawak state authorities deported a well-known ethnic Chinese education activist and prohibited his return. The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

Citizens must apply for the government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government does not always abide by customary international law in this area. The Government does not recognize the principle of first asylum; however, it sometimes granted temporary refuge to asylum seekers. In 2001 Foreign Minister Datuk Seri Syed Hamid Albar said that Indonesian refugees fleeing violence in Kalimantan would be prevented from entering the country, and the Government continued to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, had a claim to refugee status. However, the Government enjoyed a mostly cooperative relationship with the UNHCR and generally did not obstruct the UNHCR's efforts to process refugees, including Acehnese, for third-country resettlement.

Beginning on August 1, when the new immigration law went into effect, the Government temporarily restricted access for asylum seekers and refugees to the UNHCR field office in Kuala Lumpur. (The new immigration law provides for 6 months in prison and up to six strokes of the cane for violators. Prior to the implementation of the law, a 4-month grace period was given for all illegal immigrants to depart the country.) During the approximately 1 week that access to UNHCR was restricted, police

arrested over 100 individuals in front of the UNHCR offices. Some individuals may have been refugees and others reportedly were asylum seekers who had scheduled interviews with the refugee agency. However, the Government subsequently granted UNHCR officials access to detention camps to identify and to interview potential refugees who might have been caught in the dragnet for illegal immigrants. The Government reportedly assured UNHCR that no action against possible refugees and asylum seekers would be taken until the refugee agency had identified the ones that merited asylum interviews (see Section 1.c.).

According to news reports, three Filipino children died during deportation from Sabah. In September there were allegations that police raped a 13-year-old Filipino girl in an immigrant detention camp in Sabah. Following widespread media coverage and pressure from the Government of the Philippines, Prime Minister Mahathir publicly pledged to have the allegations investigated. Further investigation after the girl was deported to the Philippines revealed that she was a Malaysian citizen, and she subsequently returned to Sabah. No additional information was available at year's end.

In June police arrested 18 Muslim Rohingya asylum seekers whose encampment in the UNHCR compound prevented other asylum seekers from approaching the agency. Newspapers reported they were sent to Semenyih illegal immigrants' detention camp in Selangor for deportation to Burma after their requests for refugee status were denied by the UNHCR (see Section 1.d.).

There were some forced expulsions of asylum seekers and refugees during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

By law citizens have the right to change their Government through periodic elections; however, while votes generally were recorded accurately, there were some irregularities that affected the fairness of elections, and in practice opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. For example, a number of opposition parties contested in the state election in Sarawak in 2001 and in five by-elections that were held during the year. In July the opposition retained a seat in the Kedah state assembly but lost a Parliamentary seat in a tightly contested election. In the November 1999 elections, the opposition more than doubled the number of its seats in the national parliament from 20 to 45, out of a total of 193.

The country has a parliamentary system of government. National elections are required at least every 5 years and have been held regularly since independence in 1957. The Malay-based UMNO party dominates the ruling National Front coalition, which has ruled the country continuously since independence. Since 1969 the National Front coalition always has maintained at least a two-thirds majority in Parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch and in the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (see Section 2.a.). Government officials frankly said that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders credibly claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but is perceived to be under the control of the Government. In June 1999, Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said that there was no need to consult the opposition on the appointment of a new Election Commission chairman. The Election Commission stated that the NGOs were permitted to form an independent election watch organization, but the organization was accorded no special privileges. The Government continued to publicly reject the idea of foreign observers.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated during the year, and according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that in the past local government officials who served as election officers were not always neutral. The Election Commission later announced that it completed its investigation into these complaints, but it did not reveal its findings. In the most recent elections, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties and some NGOs alleged that defective voting rolls led to some fraudulent votes. In Sabah state elections in 1999, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). In June 2001, a High Court judge in Sabah ruled that the 1999 election of a ruling coalition candidate, Yong Teck Lee, to the state assembly seat in Likas was null and void due to the presence of phantom voters on the electoral rolls. However, in the by-election that followed, Yong won by a margin wider than that in his 1999 victory. Opposition representatives charged that the Government did nothing to clean the electoral rolls of phantom voters following the judge's ruling and before the by-election was held. In September Yong lost his appeal to the Federal Court on this case, and once again was forced to relinquish his seat. Analysis by NGOs of the voting rolls used in the national elections also revealed irregularities, such as deceased persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies;

however, according to most observers, there was no evidence that these irregularities significantly affected the results in more than a handful of races. According to news reports, the Election Commission is in the process of cleaning up the voter rolls and eliminating the names of unauthorized persons from the lists.

Postal votes (absentee ballots) by police and military personnel and their spouses also were a concern. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes placed on military and police installations. Opposition parties questioned the rationale for such security restrictions. Opposition parties and NGOs raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers. For the November 1999 elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continued to call for monitoring absentee votes by party agents.

The anonymity of balloting also was a potential concern. Ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so had a chilling effect on some voters, particularly civil servants.

Gerrymandering diluted the votes of some citizens. The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often were ignored. For example, in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide, the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. The single member, winner-take-all system also diminishes the political power of the minority groups. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed no longer to be as great an advantage to the ruling coalition. The Government conducted a nationwide electoral redistricting exercise during the year. While the results were not final, preliminary reports suggested that states in which the ruling coalition is strong will gain the majority of the new districts (and parliamentary and state assembly seats) created.

Other government measures hampered the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers not to support the opposition (see Section 2.a.). Students faced certain restrictions on political activity (see Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition Members of Parliament received a government allocation totaling in aggregate approximately \$25 million (95 million ringgit). Opposition Members of Parliament received no such funds.

In the past, the opposition complained about restrictions on public assemblies during the campaign period (see Section 2.b.). However, in the period prior to the November 1999 elections, police did not implement restrictions vigorously, and the opposition held many large rallies. The opposition also stated that the short official campaign period gave an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the elections, and there was little evidence that the short official campaign period had much practical effect. In defending its ban on all political meetings, the Government noted that there was no need for the opposition to continue campaigning in a nonelection year.

In September Parliament passed an amendment to the Election Offenses Act that stated that anyone raising "sensitive issues" such as religion or race before, during, or after an election would be removed from the electoral roles or banned from voting or standing in an election for 5 years. It also prescribed a prison sentence of up to 5 years and a \$13,000 (50,000 ringgit) fine for violators of the law.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. According to the Elections Commission, all petitions were either withdrawn by the petitioners or were dismissed due to lack of evidence. In March 2000, the High Court ruled that the Election Commission and returning officers may not be named as "necessary parties" in petitions filed with election courts by unsuccessful candidates. In July Parliament passed an amendment to the electoral law that forbids judicial scrutiny of voter rolls after the Election Commission certified them.

In the past, within the ruling UMNO party, there was active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited, but did not eliminate, UMNO's role as a vehicle for public debate. However, after the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased, and a 1998 extraordinary UMNO Assembly approved a series of measures designed to limit independent grassroots initiatives. There were no contests for the top two leadership positions in UMNO in 2000 and no party Supreme Council elections during the year. At the UMNO General Assembly in May 2000, 3 vice president slots and 25 elected seats on the Supreme Council were contested vigorously, with a number of candidates known not to be favored by party leaders; however, it was announced before the General Assembly that there would be no contest for the Party President and Deputy President, positions held respectively by Prime Minister Mahathir and Deputy Prime Minister Abdullah.

Elections for key leadership positions in the MCA, originally scheduled for June, were postponed until after the next parliamentary elections. Some observers suggested that the vote was postponed to ensure that deep divisions within the party

did not undermine the ruling coalition's electoral prospects.

Over the years, Parliament's function as a deliberative body deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In December 2001, a Member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary Speaker for disallowing discussion concerning corruption in the process of certifying lawyers. The 1995 Parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited members' opportunities to question and debate government policies even more severely. In 2001 an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches were delivered. Nonetheless, government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the mainstream press. State assemblies also limited debate.

After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

Women face no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that do exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the elected lower house of Parliament, and they held 19 of 69 seats in the appointed upper house. In 2001 the Prime Minister established the Ministry of Women's Affairs and Family Development, and appointed a prominent female politician as its first Minister. In 2000 Tan Sri Doctor Zeti assumed the post of Central Bank Governor as the first woman to be appointed to the post. Also in December 2000, Ainum Mohamed Saaid was appointed as the Attorney General, the first woman to hold that position. Originally appointed for a 2-year term beginning in January 2001, Ainum, citing ill health, was replaced at the end of 2001. In 1998 the Minister of National Unity and Social Development said that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister said that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was between 6 and 7 percent. The Islamic opposition party does not allow female candidates to stand as candidates for the lower house; however, the party has a female senator. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in Government, as well as in senior civil service positions. The political dominance of the Malay majority means in practice that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 9 of the 28 cabinet posts and 15 of 28 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition held executive power in the State of Penang.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. However, government officials met with NGOs on several occasions during the year. Government officials harshly criticized domestic NGOs for collaborating with foreigners, including international human rights organizations. Nonetheless, at year's end, no group was banned or decertified. In the past, public apathy and racial divisions (non-Malays dominated most domestic human rights NGOs) limited the effectiveness of NGOs. However, public discontent over the 1998 removal and subsequent imprisonment of Deputy Prime Minister Anwar encouraged some NGOs to speak out against the Government, and it led to the increased involvement of ethnic Malays in NGO activity.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest (see Section 2.b.). In 2001 Parliament amended the Registration of Businesses Act to enable the Registrar to refuse or to revoke the registration of organizations deemed to be engaging in unlawful activities. The Government generally did not allow international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of international human rights organizations. The Government did not allow Amnesty International (AI) to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO. In recent years, the Government did not revoke the registration of any human rights NGO.

Since its establishment in April 2000, the National Human Rights Commission, Suhakam, has come to be seen by some analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. However, civil society leaders expressed skepticism regarding the strong civil-service orientation of the majority of the new commissioners appointed in April, saying that the Commission would adopt a "progovernment" perspective as a result. To register its concern, a group of leading human rights NGOs formally disengaged from the Commission for a period of 100 days.

The legislation that created Suhakam defines human rights as "the fundamental liberties provided for" in the Constitution and

restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. In 1999 prior to Suhakam's creation, opposition leaders and NGOs, including the Bar Council, criticized the definition of human rights as too narrow. Further, Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In June Suhakam released its second annual human rights report. The report criticized detentions without trial and reiterated Suhakam's opposition to government-imposed restrictions on freedom of assembly but also praised the August 2001 Constitutional amendment prohibiting discrimination based on gender. The report provoked little public response and an ambivalent reaction among civil society groups.

During the year, Suhakam Commissioners continued to travel throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. Suhakam issued press statements and held press conferences after several of their visits. In its second annual report, Suhakam published its findings regarding the rights of ISA detainees, the rights of remand prisoners, and the rights of young prisoners. In August the Vice Chairman of Suhakam provoked controversy among human rights groups when he said publicly that the Government should organize rehabilitation programs for ISA detainees. In June Suhakam also held an inquiry into the condition of ISA detainees. The report on this inquiry has not been made public yet.

While initially skeptical, some observers acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however distantly, executive control. However, following former Chairman Musa Hitam's October 2001 statement that human rights would need to take a back seat in the fight against terrorism, the Commission has assumed a lower profile in carrying out its mission and has not often publicly challenged the Government on sensitive subjects. The new Chairman of the Commission, former Attorney General Abu Talib, appeared to favor a low-key, behind-the-scenes approach to promoting human rights.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001 the Parliament unanimously approved a Constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

Women

Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Family and Women Development Ministry, there were 3,107 cases of domestic violence reported in 2001, compared to 3,468 in 2000.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police need additional training in handling domestic abuse as well as rape cases.

Domestic violence complaints are rare under Islamic law. Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Shari'a generally (each state has a separate code) prohibits wives from disobeying the lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, in Shari'a courts against their husbands, although Muslim women are able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, women's rights activists claimed that no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to Royal Malaysian police statistics, as of August there were 984 reported cases of rape during the year. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under age 16. Many government hospitals have set up crisis centers where victims of rape and domestic

abuse can make reports without going to a police station. The NGOs and political parties also cooperate in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. According to the Ministry of Women and Family Development and a leading woman's NGO, only 10 percent of rape cases are reported to the police. In a 2000 study involving 417 court files from 7 state capitals and Kuala Lumpur, even when alleged rape was reported, only 1 in 5 cases was heard in court, and only 1 percent of the reported cases resulted in a rape conviction. The Penal Code states that a convicted rapist shall be punished with imprisonment for a term not less than 5 years and not more than 20 years. Some rapists received heavy punishments, including caning, but women's groups complained that some rapists received inadequate punishments. In September a police constable was acquitted of charges of raping two foreign women who were in police custody. The Session Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal, which was still pending at year's end.

In July the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill (see Section 2.c.). The Government, led by Women and Family Development Minister Sharizat Abdul Jalil, argued that the proposed law discriminates against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women or non-Muslims would be barred from testifying. An amendment to an earlier version of the law provides for rape convictions (with lesser penalties) even if four male eyewitnesses could not be produced, in the event that circumstantial evidence was deemed sufficient. Illicit sex is still punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100 lashes and 1 year in prison. One prominent NGO critic of the law said that it was contrary to Islamic teachings, as the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. However, this law remained in limbo at year's end, as its implementation required an amendment to the Federal Constitution. The suit filed at the Federal Court challenging a similar proposed law in the State of Kelantan on the constitutional grounds that states have no authority over criminal law was pending at year's end.

According to a well known activist, some girls in provincial areas are subject to varying forms of female genital mutilation (FGM). Some Malay girls receive a tiny ritual cut to the clitoris or participate in a ceremony where a blade is brought close to the clitoris. Almost all Malay women, including Muslim women activists, do not believe that this constitutes mutilation.

A 1998 International Labor Organization (ILO) study estimated that there were approximately 40,000 to 140,000 prostitutes in the country. The Government strongly disputed this estimate, and the police stated that they would investigate NGOs that might have provided the information that formed the basis of the study. Since prostitution itself is not illegal, statistics are only available for foreigners arrested for immigration or other offenses with suspected involvement in prostitution. The number of foreign persons arrested with suspected involvement in prostitution increased during the year. Police attributed the increase to more vigorous enforcement efforts. Police also believed that the increasing number of arrests was a result of greater numbers of women trafficked to the country from ASEAN countries, China, and Uzbekistan (see Section 6.f.).

The country was a source and destination country for trafficking in women for purposes of prostitution (see Section 6.f.).

In 1999 the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. Women's groups noted the code's detailed definition of sexual harassment and attempted to raise public awareness of the problem, but they criticized the fact that adherence to the code is voluntary and not legally binding. Women's rights activists claimed that a law on sexual harassment would be more effective than a code of practice. In the first year following the issuance of the code, the Human Resources Minister advocated voluntary compliance by employers and advised unions to incorporate policies against sexual harassment into their collective labor agreements. The Malaysian Employers Federation criticized any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Since the code's introduction, the number of reported incidents of sexual harassment has risen. The number of cases reported to the Labor Department in 2000 was 61, more than double the 29 cases reported in 1999. However, the Human Resources Ministry acknowledged in 2000 that shame and embarrassment often prevented women from reporting sexual harassment. There still are many cultural obstacles to women who try to pursue sexual harassment charges.

Despite increased public awareness of the problem of sexual harassment in the workplace, in 2000 the Government acknowledged that the reluctance of employers to adopt the code may force it to enact additional legislation regarding sexual harassment. In 2001 the Human Resources Minister announced the creation of a special monitoring unit in the Labor Department to monitor and investigate discriminatory practices, including sexual harassment, against women in the workplace. According to Women and Family Development Minister Shahrizat, by September 2001 only 1 percent of registered companies in the country had adopted the code. Shahrizat also said in September that her Ministry would conduct a review of the code's effectiveness in March 2002. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

In matters of income tax, government pension benefits, and transmission of citizenship, women were disadvantaged. The cultural and religious traditions of the major ethnic groups also heavily influenced the condition of women in society. In family and religious matters, Muslim women are subject to Shari'a, which is not interpreted uniformly among the country's 13 states. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male

offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, is increasing steadily.

A 2001 constitutional amendment rendered gender discrimination in immigration policy illegal. Prior to the change, foreign spouses of male citizens and female citizens were treated differently under the law. Male citizens faced fewer legal and administrative obstacles to obtaining permanent residency status for their foreign wives than did female citizens with foreign husbands. While the change allowed some foreign men to acquire permanent residence, the new regulations do not apply to foreign laborers who marry female citizens. In addition, foreign women who become estranged or divorced from their citizen husbands would no longer face deportation. These women would be eligible for 12-month social visit passes, and they would be able to apply for permanent residency.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In July the Sultan of Selangor, who is also head of the Islamic religion in the state, acknowledged the bias against women of Shari'a court judges. An April 1999 press report described complaints by NGOs and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. Women activists asserted that these problems continued.

Muslim couples are required to take premarital courses. In previous years, female activists complained that the courses, as implemented, perpetuated gender discrimination by misinforming women of their rights in marriage. However, there were no reports during the year of such misinformation regarding marriage rights.

State governments in Kelantan and Terengganu, which are controlled by the Islamic opposition party, made efforts to restrict Muslim women's dress. Between January and May, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000 the Terengganu state government introduced a dress code for government employees and workers on business premises. Terengganu's executive counselor in charge of women's and non-Muslim's affairs claimed that the dress code was designed to protect the image of Muslim women and to promote Islam as a way of life. One Muslim women's NGO criticized the new requirement, stating that forced compliance with a state-mandated dress code is not consistent with the values of the Koran.

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act increased the protection of married women's rights, especially those married under customary rites. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In September Parliament approved an amendment to the Group Settlement Act that gives wives of settlers joint stake in the land awarded to their husbands.

In 2001 the Prime Minister established a cabinet post for Women's Affairs and Family Development. Shahrizat Abdul Jalil heads the new ministry and is credited with leading the successful effort to amend the federal Constitution to prohibit sex discrimination and launch a public campaign in August 2001 against violence in the home.

Government policy supports women's rights, and the Government undertook a number of initiatives to promote equality for women. The Government also promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in professional positions, but women's groups argued that the level of participation was still disproportionately low. However, in the scientific and medical fields, women made up more than half of all university graduates and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to statistics released in the Government's Economic Report 2000-01, women constituted 44 percent of the labor force. The proportion of women in the civil service rose from approximately 33 percent in 1990 to approximately 44 percent in 2001, and women occupied some high-ranking civil service positions. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

Children

The Government has demonstrated a commitment to children's rights and welfare; it spends approximately 20 percent of the national budget on education. The Government provides free education for children through 15 years of age. Although primary education is deemed compulsory by the Government, there is no legal requirement or enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent. Secondary school attendance is 82 percent. A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In August the Child Act of 2001 went into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child. The act stipulates more severe punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a children's court, which, the Government stated, would better protect the interests of children. The bill allows caning, but this punishment is limited to male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane." As the new act went into force, three other laws governing child prostitution, child abuse, and delinquency—the Women and Girls Protection Act, the Juvenile Courts Act, and the Child Protection Act—were repealed.

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. Child abuse received wide coverage in the press. A July amendment to the Penal Code provides 6 to 20 years' imprisonment and caning for individuals convicted of incest. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children. In 2001 a women's NGO began promoting an education package about child sexual abuse. The package of booklets, videos, and discussion topics were designed for use in primary schools. Forty schools asked to use the materials, and the NGO hopes the Ministry of Education will introduce the package into the curriculum of all primary schools.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a sometimes punishes the victims of statutory rape. Moreover Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men are charged and punished for statutory rape under secular law. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under 16 years of age.

Child prostitution existed. However, child prostitutes often were treated as delinquents rather than victims. According to police statistics, between January and October, 170 underage girls were detained and sent to rehabilitation centers for involvement in immoral activities. Statistics for the apprehension of traffickers were not available (see Section 6.f.).

Child labor occurs in certain areas of the country (see Section 6.d.).

Persons with Disabilities

The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. There is a public sector regulation reserving 1 percent of all public sector job openings for persons with disabilities. However, few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. In December 1999, Former Minister of National Unity and Social Development Zaleha reportedly said that "all buildings" would be made accessible to persons with disabilities within 2 years. Although it was not possible to verify that all buildings were made accessible to persons with disabilities, new government buildings were outfitted with ramps for persons with disabilities.

The Government continued to implement efforts made to address the needs of persons with disabilities. In 2000 the Ministry of Housing and Local Government announced that the uniform building by-laws would be amended to ensure that all newly constructed buildings included a full range of facilities for persons with disabilities, including special parking lots, elevators, and restrooms. By year's end, it was not possible to verify whether building by-laws were amended. In 2001 the Human Resources Ministry launched the Code of Practice for the Employment of Persons with Disabilities in the Private Sector. According to the Government, this code is a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. In addition, the federal budget for 2001 included several provisions to ease financial burdens on persons with disabilities and to improve work, education, and training opportunities. In its second annual report, Suhakam recommended the passage of a Disabled Persons Bill to address discriminatory practices and to eliminate architectural and communication barriers facing persons with disabilities. However, no such bill has been introduced.

Special education schools exist, but they were not sufficient to meet the needs of persons with disabilities population. However, the Government and the general public were becoming more sensitive to the needs of persons with disabilities. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Provisions for persons with disabilities in the 2001 budget include several allowances for tax relief for working spouses of persons with disabilities, full exemption for all medical fees at government hospitals, and full exemption on fees for travel documents. All equipment designed specifically for use by persons with disabilities would also be exempt from all import duties and sales taxes. Recognizing that public transportation is not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics state that persons with disabilities made up 7 percent of the population.

Indigenous People

Indigenous people (the descendants of the original inhabitants of peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region known as the Orang Asli vest considerable authority in the Minister for Rural Development, (who oversees the Department of Orang Asli Affairs) to protect, control, and otherwise decide issues concerning this group. The indigenous people of the Borneo states have no special government department dedicated to their concerns. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

The Orang Asli, who number approximately 133,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli live below the poverty level. The percentage of Orang Asli who led nomadic lifestyles has dropped to less than 1 percent. The Government announced development projects for the Orang Asli from time to time. According to the head of an NGO working with Orang Asli, school dropout rates among Orang Asli increased markedly over previous years, and the percentage of Orang Asli living below the poverty line increased.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis were permitted to live on Orang Asli reserves but did not possess land rights. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, agreed to issue titles to Orang Asli. Surveying and transfer of title has proceeded slowly. However, during the year a number of Orang Asli received land titles to leased land. According to the leader of an NGO who worked on Orang Asli issues, over the years the total area of land reserved for Orang Asli has decreased, and some land previously set aside as Orang Asli reserve has been re-zoned for developmental use.

The federal budget for the year did not specify the amount of money allotted to the Orang Asli community. Programs targeting Orang Asli were scattered throughout the budget and included poverty eradication, improvement of education and social welfare, and upgrading the infrastructure of resettlement villages. In addition, in 2000 National Unity and Social Development Minister Siti Zaharah Sulaiman announced a "stay in school" program to address the increasing number of school dropouts in the Orang Asli community. The Government allocated \$1.2 million (4.8 million ringgit) for the project. In August the Cabinet approved the formation of a national advisory council for the development of Orang Asli. Two NGOs criticized the fact that only 5 out of 17 council members were Orang Asli.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In January Orang Asli in the State of Pahang attempted to block logging trucks from entering their land. According to one NGO, the state ministry of Orang Asli Affairs later gave out cash compensation to placate the protesters. During the year, there were continued complaints about land encroachment. In some cases, Orang Asli sued to protect their land. In 1996 a suit was brought by Orang Asli Temuans who lost land during the construction of the Kuala Lumpur International Airport highway. In April the High Court ruled in favor of the Orang Asli Temuans, arguing that they should be considered the rightful owners of the land and ordered the Selangor state government to pay rightful compensation.

Although state law recognizes the right of indigenous people to land under "native customary rights," in the Borneo states the definition and extent of these lands have been in dispute. However, in a judgment in May 2001, the High Court in the provincial capital of Kuching, Sarawak, ruled that native customary rights of the indigenous people of Sarawak do not exist because of statute; rather, they are historically recognized rights which existed long before independence. The judgment further recognized that forests, rivers, and streams adjacent to indigenous communities also are included under native customary rights. The state government of Sarawak appealed the decision. Nonetheless, indigenous people in the State of Sarawak continued to protest the encroachment by state and private logging and plantation companies onto land that they consider to be theirs under customary rights. In July for example, about 200 indigenous people in Miri, Sarawak, failed to get a court injunction to stop two timber companies from conducting logging activities in an area they claimed was their ancestral land. They have appealed the decision.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse. In 2000 the Sarawak state assembly passed amendments to the state land code that the state government stated would increase the rights of indigenous people to exert control over their traditional lands. A group of NGOs disputed the state government's characterization of the legislation and claimed that it would in fact further diminish the ability of indigenous people to defend their rights on land issues. Indigenous people displaced by the Bakun Dam project in Sarawak continued to protest the lack of transparency in the resettlement process, inadequate compensation for their lands and homes, and destruction of their traditional way of life. However, the state government dismissed these complaints, claiming that only the older generation had reservations about the resettlement program. As a result of its October 2001 fact-finding trip, Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands. In its 2001 annual report, Suhakam recommended that the state government allocate alternative land for settlers who were displaced due to the Bakun Dam project, urged the state government to subsidize the cost of their new homes, and provide adequate and equitable compensation to the families.

Suhakam stated in the same report that indigenous people should be involved in the decision-making process of any development projects that have a direct impact on them. In 2001 an NGO working on behalf of indigenous people in the State of Sarawak expressed deep concern over the passage of the state assembly's Land Surveyors Bill, which requires land surveys to be carried out exclusively by state-licensed land surveyors. The NGO claimed that indigenous people struggle to prove their land rights and depend on NGOs to assist them with mapping. NGOs help to create maps that can then be used in court to protect Nature Conservatory Rights land from logging, development, and palm oil cultivation. The NGO contended that without assistance from independent surveyors, indigenous people were legally powerless to dispute encroachment on their land.

The Government implemented extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens remained among the country's poorest groups. The Chinese and Indian minorities did not benefit from the preferential policies that benefited ethnic Malays.

Public questioning of the preference rights of ethnic Malays was a sensitive issue. In 2000 a group of youth members of UMNO became unruly at a rally held outside a Chinese assembly hall in the wake of public comments by a Chinese association that allegedly questioned the granting of special rights and privileges for Malays. Some of the demonstrators threatened to burn down the hall. Chinese groups in the ruling coalition demanded action against the perpetrators. The Government had taken no action by year's end.

Section 6 Worker Rights

a. The Right of Association

By law most workers have the right to engage in trade union activity, but only 8.49 percent of labor was represented by 599 trade unions. Those who do not have the right include workers labeled "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department places conditions on foreign workers' permits that effectively bars them from joining a trade union (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor policies by positing that a "social compact" exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

The Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires a union to be recognized within 21 days, it is not uncommon for unions to go unrecognized for 1 to 2 years. There was an increasing number of private company court challenges to Ministry decisions authorizing the formation of unions. During the year, according to MTUC officials, there have been 10 such challenges. Even in-house unions sometimes faced difficulties. One company resisted concluding a collective bargaining agreement for over 12 years, including by changing its name five times so far. At year's end, the company union remained in limbo pending a decision by the Court of Appeals.

Government policy inhibits the formation of national unions in the electronics sector, the country's largest industry. The Government believes that enterprise-level unions are more appropriate for this sector. In February 2000, the Minister for Human Resources said employers should not obstruct the formation of in-house unions. According to MTUC officials, 150,000 electronics workers still were unable to organize and only 8 in-house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as "pioneer status." According to the ILO, the Government has been promising to repeal this statute since 1994.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a federation of all unions in the country, in both the private and government sectors. The Congress of Unions of Employees in the Public and Civil Service is a federation of civil servant and teacher unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In June 2001 the Trade Unions Department received an application to register a federation of trade unions representing port workers. The Director General of Trade Unions rejected the application saying it did not fulfill the requirements of the Trade Unions Act. At year's end, MTUC officials said no decision had been made in this case. In February 2000, the Government approved the establishment of a federation of airline unions that represented approximately 20,000 employees in the aviation industry. MTUC officials were hopeful that Prime Minister Mahathir would announce the country's plans to ratify ILO Convention 187 when he addressed the ILO in June, but were disappointed when he made no reference to the convention in his speech. At

year's end, the Government still had not it.

Enterprise unions can associate with international labor bodies and do so. The International Metal Workers Federation was working with enterprise unions in the electronic sector to form a national union.

b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, others point out that the Industrial Court almost always sides with the workers in disputes. In the past, the press reported that an MTUC survey indicated that employers often ignored Industrial Court judgments with impunity. In January 2000, the Minister of Human Resources said that more Industrial Court chairmen would be appointed to deal with a backlog of more than 100 cases and noted that the courts were so congested that new cases could not be scheduled until January 2001. During the year, the number of Industrial Court chairmen was increased from 14 to 23. According to MTUC officials, the backlog of cases was being addressed and had dropped to 3,000 during the year.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union that he deems is being used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government states these essential services are considered crucial to the economy and the public interest. The MTUC officials say that requirements imposed by the authorities are so stringent that it is almost impossible to strike. According to the Ministry of Human Resources statistics up to October, there were 3 strikes and lockouts involving 296 workers during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. Although some trade unions questioned their effectiveness, it is not possible to assess fully whether these provisions were being enforced effectively, given the limited number of cases of alleged retribution. In Johore 120 union members of a large textile manufacturing company were suspended for taking part in a picket protesting the company's refusal to commence collective bargaining. Subsequently, 30 of these workers were dismissed.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries."

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, and the Government generally enforced this prohibition. In theory certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, the constitutional prohibition renders these laws without effect.

In 2000 the Appeals Court ruled that a company must give proper notification to its workers when selling its business to another entity. The Appeals Court ruled that compelling an employee to work for a new employer without offering the option to terminate the labor contract amounted to a form of forced labor. The Appeals Court ordered the employers to compensate the workers for failing to give proper notification of sale as prescribed by the Employment Act.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the plantation sector, helping their parents in the field. However, only adult members of the family

received a wage. In urban areas, child labor can be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses, but maintained that foreign workers largely have replaced child labor and that the Government vigorously enforced child labor provisions.

e. Acceptable Conditions of Work

There was no minimum wage, as the Government preferred to allow market forces to determine wages. Wage Councils which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, Wage Councils have not met for over 12 years and their recommended wages have been obsolete for a longtime. However, prevailing market wages often provided a decent living.

Plantation workers generally receive production related payments or daily wages. In February the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$84 (325 ringgit) per month. Proponents of the agreement argue that productivity incentives and bonuses raise the prevailing wage to nearly \$184 (700 ringgit). Rubber plantation workers still have no minimum wage.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 39 percent of the plantation work force, although the number could be higher since there were illegal workers. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belong to the NUPW. Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations. The NUPW asserted that the number of accidents during the year in the plantation sectors was about equal to the accident rate during 2000. Immigrant workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. Government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigated complaints of abuses, attempts to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act includes both local and foreign workers; however, foreign domestic workers have no protection under the act.

According to the Government, foreign domestic workers are protected under the Employment Act, in particular in regard to wages and termination of contract. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. For example, in 2001 a local women's NGO offered shelter to 13 foreign domestic workers who claimed they had been abused. Some of the victims claimed that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them.

In 2000 the Minister of Human Resources Datuk Fong Chan Onn announced that abused foreign domestic servants may be eligible for compensation under the Workmen's Compensation Act. The Cabinet commissioned a study of the issue to determine what measures for protection, compensation, and legal course of action should be available to victims under the act, although it was not verified if the study was completed. In October 2000, the local press reported four separate cases of physical abuse against foreign domestic workers that were settled when the accused offered compensation to the victim. The Criminal Procedure Code allows that for certain offenses an offender may, if the parties agree, pay a fee to the victim by way of compensation. The Human Rights Committee of the Bar Council claimed that the settlement gave the public "the overall impression that justice can be bought." A human rights NGO activist called the settlement a "dangerous trend." In order to reinforce its enforcement capabilities in this sector, the Government increased the number of officers assigned to the Department of Occupational Safety and Health Act (OSHA).

The OSHA covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintained that relatively few committees were established and, even in cases where they did exist, they met infrequently and generally were ineffective. In 2001 the Human Resources Ministry announced a new regulation to protect laborers performing hazardous work in confined spaces such as manholes and storage tanks. Employers are obliged to fulfill certain safety and technical requirements before beginning any projects in confined spaces. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

In 2000 MTUC president Zainal Rampak called for a review of the three-shift system in the electronics industry, referring to a study that concluded that the system contributed to severe stress and workplace accidents among the industry's mainly female work force. Government health and safety officials defended the system, claiming that it provided adequate safeguards for conscientious employers and workers.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. However, in the run-up to the implementation of the new immigration law on August 1, thousands of illegal foreign workers, particularly from Indonesia and the Philippines, returned home. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse. Legal foreign workers are entitled to the same rights and protections under the country's labor law as Malaysian nationals. In addition, the law prohibits discrimination between foreign and local employees in the terms and conditions of employment. However, legal foreign workers are prevented from joining trade unions by Immigration Department restrictions on their work permits. The Government states that it does not encourage foreign workers to join unions and that labor laws are adequate to protect foreign workers' interests. In addition, some foreign workers are victims of unscrupulous agents, and are enticed by promises of a particular job at a particular salary before they leave home but upon their arrival in the country find a contract for a different job at a lower salary.

Trafficking in Persons

The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons, and trafficking in women, and occasionally girls, for the purpose of prostitution. The country has no law that specifically criminalizes trafficking in persons. The country uses other laws such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers. However, authorities generally did not separate trafficking victims from other illegal immigrants. Evidentiary rules made it difficult to obtain convictions of traffickers.

The country was a source and destination country for trafficking in women and girls for sexual exploitation. Young women from primarily Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. During the year, there also were reports that Burmese adults were trafficked to the country.

In 2001 The Royal Malaysian Police arrested 4,132 foreign prostitutes. There were allegations that some level of corruption existed among law enforcement since some trafficking victims were known to pass through two or more ports of entry without travel documents.

Malaysian women were trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who were victims of traffickers were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believe that Chinese criminal syndicates were behind most of the trafficking (both incoming and outgoing) of women of all nationalities.

The new immigration law, which came into effect on August 1, resulted in a significant decrease in the number of illegal residents in the country, which included persons who were trafficked into the country.

Individual government officials may provide counterfeit documents illicitly to traffickers (although no specific cases were reported), but government agencies try to eradicate corruption and fraud within their ranks. Trafficking within the country's borders was perpetrated by one or two organized criminal groups and a few local operators. Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from luxury apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said they were lured to the country by promises of legitimate employment but were then forced into prostitution upon their arrival in the country. In 2001 the police discovered 34 Indonesian and Thai women locked in a shophouse fitted with hidden metal doors and passageways to avoid detection. The women were drugged with sedatives during the day and forced to work as prostitutes at night.

The Penal Code includes special provisions related to trafficking only for purposes of prostitution. For example, specific sections of the Penal Code prohibit the sale or hire of anyone under the age of 21 for purposes of prostitution. Another section prohibits the transport into the country of any woman for purposes of prostitution. Punishment for these offenses includes a maximum 10-year prison term or a fine, to be determined at the discretion of the sentencing judge. Under the Child Act of 2001, which took effect on August 1, brothel owners, pimps, and clients of underage prostitutes may face a fine of up to \$13,000 (50,000 ringgit), a prison sentence of not less than 3 years, and mandatory caning of up to 6 strokes. Repeat offenders face a caning of up to 10 strokes.

The Government assisted underage girls and rescued some kidnaped women during the year. For example, according to police statistics, between January and June 149 underage girls were rescued from vice syndicates. According to Social Welfare Department statistics, 453 women were sent to rehabilitation centers after being detained in suspected places of prostitution in 2001. However, NGOs and women's rights activists complained that police had no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrested or deported individual women for immigration offenses. Some trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being kept by the

police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. Statistics for apprehension of traffickers were not available. From 1998 through June, 130 individuals involved in the harboring of prostitutes were placed under "restricted residence." The Restricted Residence Act is designed to deter organized criminal activity and requires individuals to temporarily move to a predetermined location far from their usual domicile, and check in regularly with police.

The Government stated it did not prosecute anyone for the specific offense of trafficking in persons but did take concrete steps during the year, including the implementation of the new immigration act, to address the problem of trafficked persons. There were a number of active NGOs that provided assistance to trafficking victims. Several NGOs provided shelter for trafficking victims and assisted them in being repatriated to their home countries. The Government provided direct financial support to 75 different NGOs dedicated to women and girls' welfare. While these NGOs did not specifically target trafficking victims, they were available to help repatriated Malaysian victims and foreign victims who had been released into the custody of their embassy or consulate.

The Government recognized the need to improve the treatment and protection of trafficking victims. A local woman's NGO was working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims. The Government formed an inter-agency trafficking in persons working group to formulate its anti-trafficking in persons strategies and to strengthen inter-agency and public-private cooperation against trafficking in persons. The Ministry of Home Affairs formed a special anti-vice Task Force that aimed to target trafficking and prostitution networks and to identify and deport foreign women who entered the country, legally or illegally, and subsequently engaged in the sex trade.